

Chapter 1. INTRODUCTION

1.1 Background

This Draft Supplemental Environmental Document (DSED) presents the review and analysis necessary to assist the California Fish and Game Commission (Commission), the lead agency pursuant to the California Environmental Quality Act (CEQA), in taking action regarding the regulation of the commercial harvest of Pacific herring (*Clupea pallasii*) in California. It was prepared by the Department of Fish and Game (Department) for the Commission following CEQA Guidelines. The project being considered is the proposed changes to the regulations for the 2006-07 California Pacific herring commercial fishing season.

This DSED was prepared as a supplement to: (1) the Final Environmental Document (FED), Pacific Herring Commercial Fishing Regulations, certified by the Commission in August 1998; (2) the Final Supplemental Environmental Document (FSED), certified by the Commission in August 1999; (3) the FSED, certified by the Commission in August 2000; (4) the FSED, certified by the Commission in August 2001; (5) the FSED, certified by the Commission in August 2002; the (6) the FSED, certified by the Commission in August 2004; and the FSED certified by the Commission in September 2005. The FED outlines the full proposed project consisting of the operation and management of California's Pacific herring commercial fisheries and can be found on the Department's website at: www.dfg.ca.gov/mrd/herring/ceqa.

The FSED of 1999, 2000, 2001, 2002, 2004, and 2005 provided for revisions of the proposed project contained in the FED and regulatory revisions necessary for the 1999-2000, 2000-2001, 2001-02, 2002-03, 2004-05, and 2005-06 Pacific herring commercial fishing seasons, respectively. Environmental documents (DSED and FSED) were not prepared for the 2003-04 season. At the close of the 2002-03 fishing season, the Department proposed to implement a two-year regulatory cycle so that regulatory changes, other than proposed quotas and season dates, would be considered every two years instead of annually. A two-year cycle was designed to

relieve the annual burden of detailed review of the herring regulations. This DSED supplements the existing certified environmental documents and provides revisions to the regulations for the 2006-07 Pacific herring commercial fishing season.

The Department and Commission hold the public trust for managing the State's wildlife populations, including herring. That responsibility is fulfilled by a staff of experts in marine resource management and enforcement issues related to California's herring resource. The knowledge and training represented by that expertise qualifies them to perform the review and analysis of the proposed revisions of the commercial herring harvest regulations that are contained in this document.

1.2 The Functional Equivalent

CEQA requires all public agencies in the State to evaluate the environmental impacts of projects that they approve or carry out. Most agencies satisfy this requirement by preparing an Environmental Impact Report (EIR) if there are potentially significant environmental impacts. If no potentially significant impacts exist, a Negative Declaration (ND) is prepared. However, an alternative to the EIR/ND requirement exists for State agencies for activities that include protection of the environment as part of their regulatory program. Under this alternative, an agency may request certification of its regulatory program from the Secretary for Resources. With certification, an agency may prepare functional equivalent environmental documents in lieu of EIRs or NDs.

The regulatory program of the Fish and Game Commission has been certified by the Secretary for Resources. A functional equivalent, Final Environmental Document for Pacific Herring Commercial Fishing Regulations, was certified by the Commission on August 28, 1998. A new FED is required: (1) when subsequent changes are proposed in the project requiring important revisions of the previous FED due to new significant environmental impacts not considered in a previous FED; or (2) when new information of substantial importance to the project becomes available (CEQA Guidelines Section 15162, Public Resources Code Section 21166).

The CEQA lead agency may choose to prepare a supplement to a FED

instead of a new FED if only minor additions or changes are necessary to make the previous FED adequately apply to the project in the changed situation. The draft supplemental document is given the same notice and public review given to a draft environmental document, and may be circulated by itself without the previous FED. The lead agency when deciding whether to approve the proposed project, considers the previous FED as revised by the supplemental environmental document (CEQA Guidelines Section 15163). A Notice of Preparation (NOP) for this DSED was circulated to interested parties on April 3, 2006. Following the release of the NOP, the 30-day public comment period pursuant to CEQA for this DSED ended May 4, 2006. Pursuant to CEQA regulations, a 45-day public comment period for reviewing this DSED is from July 10, 2006 to August 18, 2006.

This DSED is the seventh Draft Supplemental Environmental Document (DSED) to the FED prepared by the Department. The first FSED was certified by the Commission in August 1999; the second FSED was certified by the Commission in August 2000, the third FSED was certified by the Commission in August 2001, the fourth FSED certified by the Commission in August 2002, the fifth certified by the Commission in August 2004, and the sixth certified by the Commission in September 2005. As provided for by CEQA, the Department will continue to use this method of revising sections 163, 163.1 (the new section added in December 2005), 163.5, and 164, Title 14, CCR for a period of approximately five to ten years. After this period, or sooner if deemed necessary, the Department will prepare a new environmental document or a fisheries management plan (FMP).

1.3 Scoping Process

The Department invited industry members and interested parties to a town hall meeting held on February 24, 2006 in Sausalito, Marin County. In addition, a Director's Herring Advisory Committee (DHAC) meeting was held on April 4, 2006 in Redwood City, San Mateo County. The DHAC consists of 26 representatives from the herring fishery, including buyers and fishermen. They are appointed by the

Director and serve at his or her pleasure. Pursuant to CEQA, the Department distributed, for the Commission, an NOP to interested parties on April 3, 2006. This provided a 30-day opportunity for the Lead Agency to obtain information about the scope and content of the DSED from interested federal, state and local agencies as well as the general public.

During the scoping process in past years, several issues were raised that are not included in this DSED including developing a threshold, harvesting only the fishable biomass, a complete history of the fishery, genetic comparisons of the Tomales and San Francisco populations, the cost of management of the fishery, and establishing a limited voluntary individual quota herring fishery. All of these issues would be better addressed in a Fishery Management Plan (FMP). FMPs are required for all marine fisheries pursuant to the Marine Life Management Act (MLMA). FMPs contain a comprehensive environmental and economic analysis of the fishery along with clear objectives and measures to ensure sustainability of that fishery. In addition to the primary requirements below, the Department seeks advice and assistance in developing FMPs from participants in the affected fishery, marine scientists, marine conservationists, and other interested parties. The primary requirements of an FMP pursuant to Section 7072 of the Fish and Game Code are as follows:

- To the extent practical, each sport and commercial marine fishery under the jurisdiction of other states shall be managed under an FMP. Fishery management plans will be developed in priority order.
- Each FMP shall be based on the best scientific information and other relevant information that is available, or that can be obtained, without substantially delaying the preparation of the plan.
- To the extent that conservation and management measures in an FMP provide guidelines for overall harvest, FMPs shall allocate those increased or restrictions of harvest fairly among sport and commercial fishing interests participating in the fishery.

Specifically, each FMP shall include:

- A summary of the fishery which includes historical data, economic and social information related to the fishery, habitat and ecosystem role of the species, natural history and population dynamics, number of participants, and a history of conservation and management measures affecting the fishery.
- A fishery research protocol that includes past and ongoing monitoring, essential fishery information, identification of additional information, resources and time needed, and procedures for monitoring the fishery and for obtaining essential fishery information.
- Measures necessary for the conservation and management of the fishery which includes limitations of the fishery, creation or modification of a restricted access program that contributes to a more orderly and sustainable fishery, procedures to establish, review and revise a catch quota, and requirements for permits.
- Measures to minimize adverse effects on habitat caused by fishing.
- Information and analysis and amount and type of bycatch if associated with the fishery and measures taken to minimize bycatch and mortality of discards.
- Criteria for identifying when the stock is overfished and measures to address overfishing if occurring.
- A procedure for review and amendment of the plan.

When an FMP is completed it is subject to CEQA and is considered functionally equivalent to an EIR. The current 1998 FED and subsequent FSEDs serve as an interim FMP for Pacific herring until an FMP can be developed.

1.4 Report Availability

This DSED Document is available at depository libraries for each of the counties in the affected areas, at the California Fish and Game Commission office,

and California Department of Fish and Game Marine Region offices.

1.5 Authorities and Responsibilities

The California State Legislature formulates the laws and policies regulating the management of fish and wildlife in California. It is the policy of the State to ensure the conservation, sustainable use, and where feasible, the restoration of California's living marine resources for the benefit of all the citizens of the State (Section 7050, California Fish and Game Code). It is also the State's policy to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the State (Section 1700, California Fish and Game Code, Appendix 1 of the FED).

The Legislature provides further policy direction regarding herring management in Sections 8550 through 8559 of the California Fish and Game Code. Through Section 8553 of the California Fish and Game Code, the State Legislature delegated authority to the Commission, whose members are appointed by the Governor, to regulate the commercial harvest and possession of Pacific herring. The remaining code sections provide for a limited entry fishery and require periodic review of regulations and policies.

The Commission holds public meetings at its discretion to consider and adopt revisions to these regulations. Recommendations and comments from the Department, other agencies and the public are typically received at two public Commission meetings each year prior to the Pacific herring commercial fishing season. These meetings will be held for the 2006-07 season on August 3-4, 2006 in Sacramento, and August 24-25 in Santa Barbara. The authority to prepare a supplemental environmental document is given in Section 21166 of the Public Resources Code.